

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

MICHELLE DIAS, as Personal)	
Representative of DAVID HALL’S ESTATE)	
)	
Plaintiff,)	
)	
v.)	CIVIL ACTION NO.
)	2:20-CV-00924-JTA
ALABAMA POWER COMPANY)	
)	
Defendant.)	
)	

MOTION TO DISMISS

Defendant Alabama Power Company, pursuant to Federal Rule of Civil Procedure 12(b)(6), respectfully moves this Court to dismiss Plaintiff’s Complaint with prejudice for failure to state a claim upon which relief can be granted.

Specifically, state regulation of airspace management is federally preempted under implied preemption and conflict preemption doctrines. Plaintiffs must allege a violation of the Federal Aviation Act or its regulations to state a claim against Alabama Power for allegedly failing to mark its power lines. Plaintiffs have not done so; therefore, the Complaint should be dismissed for failure to state a claim upon which relief can be granted.

To support this motion, Defendant submits the brief filed simultaneously herewith.

Respectfully submitted by,

s/ Bryan A. Coleman
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Company

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CERTIFICATE OF SERVICE

I certify that on December 7, 2020 I electronically filed and served the foregoing via the Court's CM/ECF system which will send electronic notice to all counsel of record.

s/ Bryan A. Coleman

OF COUNSEL